

COPY

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Amendment of Section 73.202(b) )  
Table of Allotments ) MB Docket No. \_\_\_\_\_  
FM Broadcast Stations ) RM - \_\_\_\_\_  
(Mercedes, San Benito, Brownsville, )  
Premont, and Falfurrias, Texas) )  
)

RECEIVED

JUL 11 2005

Federal Communications Commission  
Office of Secretary

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

**PETITION FOR RECONSIDERATION**

Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station KHKZ(FM), Mercedes, Texas, and Capstar TX Limited Partnership ("Capstar"), licensee of Station KTEX(FM), Brownsville, Texas (collectively, the "Joint Parties"), by their counsel and pursuant to Section 1.429 of the Commission's Rules, hereby file their *Petition for Reconsideration* of the decision by the Media Bureau (the "Bureau") in the above-captioned proceeding.<sup>1</sup> The Bureau should reconsider its dismissal of the Joint Parties' *Petition for Rule Making* (the "*Petition*") because the only defect was due to the specification of incorrect coordinates, and the current freeze on filing new petitions necessitates filing this reconsideration.

In support hereof, the Joint Parties state as follows:

1. The Bureau Letter indicates that the Joint Parties' proposal was dismissed because the proposed Channel 292C3 allotment at San Benito, Texas, is short-spaced to the proposed Channel 292A allotment at Premont, Texas. While this is technically correct, the short-spacing

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<sup>1</sup> See Letter from John A. Karousos, Assistant Chief, Audio Division, Media Bureau, to Mark N. Lipp, counsel to the Joint Parties (the "Bureau Letter"). See Exhibit 1. This letter is dated June 10, 2005. Accordingly, this Petition for Reconsideration is timely. See 47 C.F.R. §§1.429(d), 1.4(b).

was due to an error in the coordinates specified for the Channel 292A allotment at Premont, Texas, and can be easily corrected by changing the allotment reference coordinates as discussed below. There is precedent for modifying allotment reference coordinates of vacant allotments.<sup>2</sup> There is also precedent for the Bureau modifying allotment reference coordinates on its own motion when such modification would serve the public interest.<sup>3</sup> Indeed, based on the *Bayboro, North Carolina* case cited in note 3, the Commission staff could have issued a NPRM with slightly modified reference coordinates for Channel 292A at Premont to clear Channel 292C3 at San Benito. In addition to the public interest benefits associated with the *Petition* and discussed below, modifying the reference coordinates of the vacant channel at Premont will enable the transmitter site to move closer to Premont and will provide new service to more people than the current set of coordinates on Channel 287A. See Engineering Exhibit, Figure 8.

2. As the attached channel study shows, Channel 292A can be substituted for Channel 287A at Premont at the coordinates 27-16-20 North Latitude, 98-09-42 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities, including the proposal to allot Channel 292C3 to San Benito as proposed in the *Petition*. See Engineering Exhibit, Figure 1D. A 70 dBu signal can be provided to Premont from the proposed reference coordinates. See Engineering Exhibit, Figure 8. This is the only change necessary to make the *Petition* technically compliant.

3. Normally, the Joint Parties would correct this error and refile their proposal as a new petition for rule making. However, due to the freeze on the filing of new petitions for rule

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<sup>2</sup> See, e.g., *Eldorado, Texas, et al.*, 15 FCC Rcd 9179 (2000). The Commission will modify reference coordinates of vacant allotments only in rule making proceedings where other changes to the FM Table of Allotments are proposed. See *Fair Bluff, North Carolina*, 10 FCC Rcd 9255 (1995).

<sup>3</sup> See *Bayboro, North Carolina*, 6 FCC Rcd 4692 (1991).

making to amend the FM Table of Allotments,<sup>4</sup> the Joint Parties are prohibited from refileing for an unknown period of time. In addition to the uncertainty associated with the freeze, accepting and granting the *Petition* will be serve the public interest because the community of San Benito, Texas, will receive a first local service, there will be a net increase in new service to 163,166 persons, and the new coordinates specified herein for Premont will move the site closer to the city of license and cover more people within the proposed 60 dBu contour.

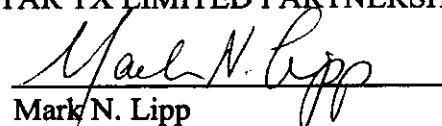
4. Attached hereto as Exhibit 2 is a stamp-return copy of the Joint Parties' original *Petition*. Attached hereto as the Engineering Exhibit is the revised channel study (Figure 1D) for Premont and a map showing the new coverage area (Figure 8). For the reasons set forth above, the Joint Parties respectfully request that the Bureau accept their *Petition* with the change in reference coordinates for the Channel 292A allotment at Premont, Texas specified herein.

Respectfully submitted,

CLEAR CHANNEL BROADCASTING  
LICENSES, INC.

CAPSTAR TX LIMITED PARTNERSHIP

By:



Mark N. Lipp  
Scott Woodworth  
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Suite 600  
Washington, DC 20004-1008  
(202) 639-6500

Their Counsel

July 11, 2005

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<sup>4</sup> See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services, Notice of Proposed Rule Making*, FCC 05-120, ¶ 47 (2005).

## ENGINEERING EXHIBIT

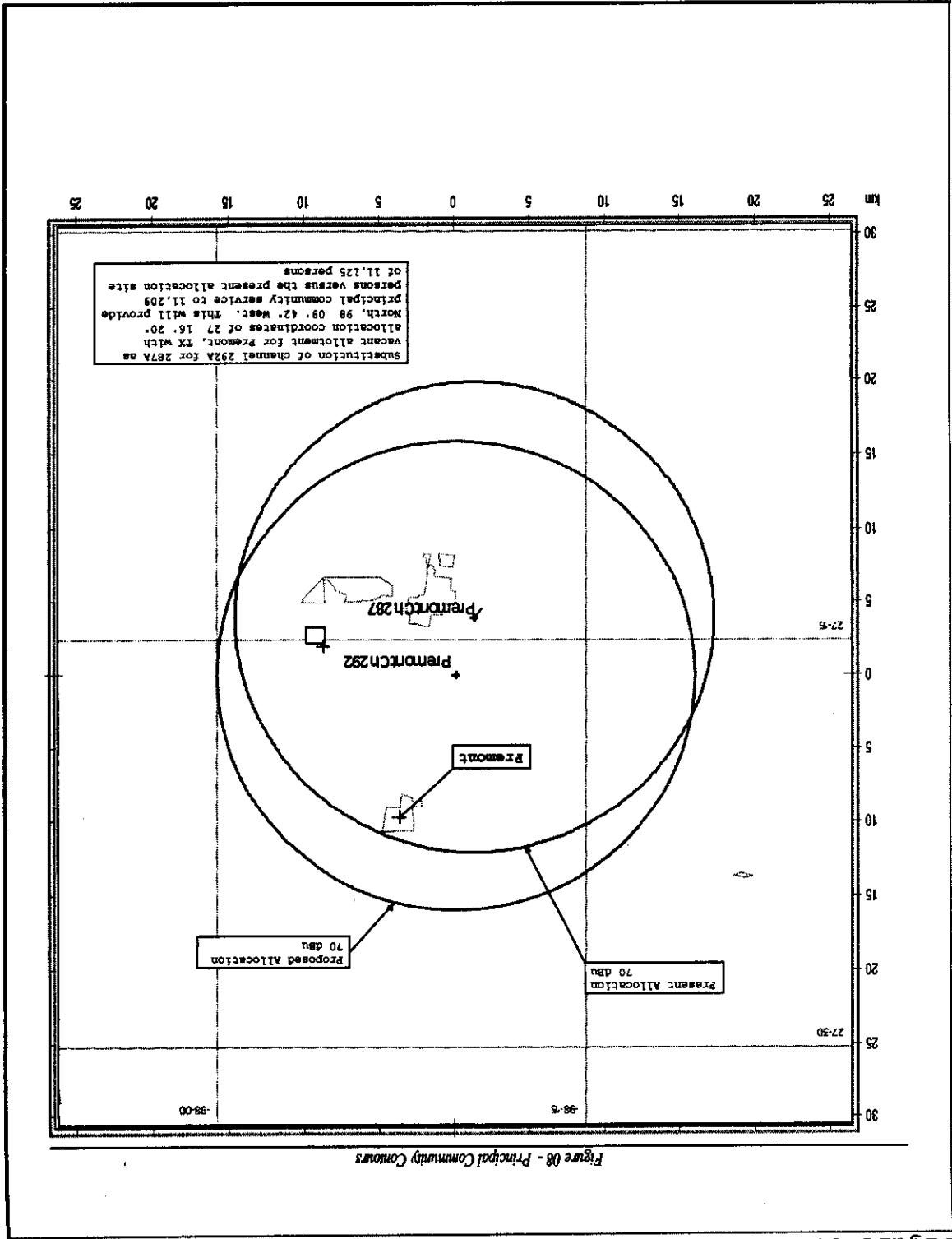
Figure 1, Allocations Spacing Studies, Continued.

D. 292A at Premont, TX Allocation Site Study

ComStudy 2.2 search of channel 292 (106.3 MHz Class A) at 27-16-20.0 N, 98-09-42.0 W.								
Callsign	State	City	Channel	Class	Status	Dis_km	Sep	Clr
KPSO-FM	TX	FALFURRIAS	292	A	LIC	4.12	115	-110.9 <sup>1</sup>
	TX	BRUNI	293	A	APP	72.12	72	0.1
	TX	SAN BENITO	292	C3	ADD	141.93	142	-0.1
KUKA	TX	SAN DIEGO	290	C3	LIC	41.95	42	0
KUKA	TX	SAN DIEGO	290	C3	USE	44.75	42	2.7
	TX	ZAPATA	292	A	ADD	117.58	115	2.6
	TX	GEORGE WEST	292	A	APP	118.89	115	3.9
KMZZ	TX	BISHOP	295	C3	USE	48.64	42	6.6
KMZZ	TX	BISHOP	295	C3	LIC	48.64	42	6.6
	TX	THREE RIVERS	292	A	ADD	121.35	115	6.4
KTKY	TX	TAFT	293	C2	USE	114.05	106	8

<sup>1</sup> To channel 287A at this same location, see Figure 1C.

Figure 8: 70 dbu Service to Premont, TX



## **EXHIBIT 1**



Federal Communications Commission  
Washington, D.C. 20554

June 10, 2005

Mark N. Lipp, Esq.  
c/o Vinson & Elkins L.L.P.  
1455 Pennsylvania Ave. NW  
Washington, D.C. 20004-1008

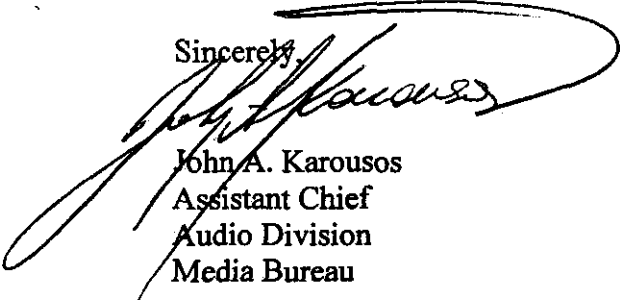
Dear Mr. Lipp:

This refers to your Petition for Rule Making filed on behalf of Clear Channel Broadcasting Licenses, Inc. and Capstar TX Limited Partnership. Specifically, you are proposing the substitution of Channel 292C3 for Channel 292A at Mercedes, Texas, reallocation of Channel 292C3 to San Benito, Texas, and modification of the Station KHKZ license to specify operation on Channel 292C3 at San Benito. In order to accommodate Channel 292C3 at San Benito, you are also proposing the substitution of Channel 287A for Channel 292A at Falfurria, Texas, and modification of the Station KPSO license to specify operation on Channel 287A. To accommodate Channel 287A at Falfurria, you are proposing the substitution of Channel 292A for vacant Channel 287A at Premont, Texas.

Your proposal is unacceptable for consideration. Specifically, the proposed Channel 292C3 reallocation to San Benito is short-spaced to the proposed Channel 292A substitution at Premont.

Based on the above, we are returning your Petition for Rule Making.

Sincerely,



John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

## EXHIBIT 2

# STAMP & RETURN

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

FEB 11 2005

In the Matter of

Amendment of Section 73.202(b)

Table of Allotments

FM Broadcast Stations

(Mercedes, San Benito, Brownsville,

Premont, and Falfurrias, Texas)

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MB Docket No. \_\_\_\_\_

RM - \_\_\_\_\_

Federal Communications Commission  
Office of Secretary

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

## PETITION FOR RULE MAKING

Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station KHKZ(FM), Mercedes, Texas, and Capstar TX Limited Partnership ("Capstar"), licensee of Station KTEX(FM), Brownsville, Texas by their counsel, hereby submit this Petition for Rule Making, which proposes to (i) delete Channel 292A at Mercedes, Texas and allot Channel 292C3 to San Benito, Texas as that community's first local service, and (ii) delete Channel 262C0 at Brownsville, Texas and allot Channel 262C0 to Mercedes, Texas. If this Petition is granted, Clear Channel will file an application for Channel 292C3 at San Benito, Capstar will file an application for Channel 262C0 at Mercedes, and both will construct the facilities as authorized. The following table summarizes the changes requested in this Petition:

City	Channel	
	Existing	Proposed
Mercedes, Texas	292A	262C0
San Benito, Texas	---	292C3
Brownsville, Texas	258C, 262C0	258C
Premont, Texas	264C3, 287A	264C3, 292A
Falfurrias, Texas	292A	287A

**I. Station KHKZ(FM), Mercedes to San Benito, Texas**

**A. Technical Analysis**

1. As demonstrated in the attached Technical Exhibit, Channel 292C3 can be allotted to San Benito at the coordinates 26-03-13 North Latitude, 97-43-19 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities, except, as discussed in paragraph 3, for Channel 292A at Falfurrias, Texas. *See Figure 1A.* A 70 dBu signal can be provided to San Benito from the proposed reference coordinates. *See Figure 5.* The relocation of KHKZ(FM) from Mercedes to San Benito will result in a predicted net gain in population of 163,166 persons within the proposed KHKZ(FM) 60 dBu contour. *See Figure 2.* The loss area will continue to receive at least 5 other aural services and will thus remain well served. *See Figures 3 and 4.*

2. The Technical Exhibit also shows a short spacing to Channel 290AA at Matamoros, Mexico. However, the allotment of Channel 292C3 at San Benito complies with the U.S.-Mexico treaty because KHKZ(FM) will not cause any interference to the facility at Matamoros. *See Agreement Between the Government of the United States of America and the Government of the United Mexican States Relating to the FM Broadcasting Service in the Band 88-108 MHz, Annex 1.* A directional antenna will be used for KHKZ(FM) in the direction of Matamoros to achieve treaty compliance. *See Figure 7.*

3. In order to allot Channel 292C3 at San Benito, Station KPSO-FM, Falfurrias, Texas, currently operating on Channel 292A, must be modified to operate on Channel 287A. Channel 287A can be allotted at the KPSO-FM's current coordinates of 27-14-11 North Latitude, 98-10-22 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities, except, as discussed in paragraph 4, for the vacant allotment on Channel 287A at Premont, Texas. *See Figure 1C.* Clear

Channel and Capstar request that the Commission issue an *Order to Show Cause* to Brooks Broadcasting Corporation ("Brooks), the licensee of KPSO-FM, to demonstrate why its license should not be modified to operate on Channel 287A. Clear Channel and Capstar commit to reimburse Brooks for the changes to the facilities of KPSO-FM in accordance with the Commission's policies. *See Circleville, Ohio*, 8 FCC 2d 159 (1967).

4. In order to allot Channel 287A to Falfurrias, Texas it will be necessary to change the channel of the vacant allotment at Premont, Texas. Figure 1D of the Technical Narrative demonstrates that Channel 292A can be substituted for Channel 287A at Premont at the current allotment reference coordinates consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities.

**B. Change in Community of License**

5. Clear Channel desires to change the community of license of KHKZ(FM) from Mercedes to San Benito under the guidelines set forth in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recons. granted in part*, 5 FCC Rcd 7094 (1990). There, the Commission stated that a station may change its community of license without subjecting the license to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 292C3 at San Benito is mutually exclusive with the current use of Channel 292A at Mercedes. *See Figure 1A*. Second, Mercedes will not be deprived of its only local service because, as discussed in paragraph 9, Capstar is changing the community of license of KTEX(FM) from Brownsville to Mercedes.

Third, the provision of a first local service at San Benito (2000 U.S. Census population 23,615)<sup>1</sup> under Priority 3 will result in a preferential arrangement of allotments over the retention of a fifth local service at Brownsville (2000 U.S. Census population 140,075) under Priority 4.<sup>2</sup> See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) ("*FM Assignment Policies*").

6. San Benito is located within the Harlingen, Texas Urbanized Area and the proposed 70 dBu contour of KHKZ(FM) will cover 100% of the Harlingen, Texas Urbanized Area. However, KHKZ(FM) is currently located within the McAllen, Texas Urbanized Area and the current 70 dBu contour of KHKZ(FM) covers 48% of the Harlingen, Texas Urbanized Area. Therefore, this relocation does not implicate the Commission's policy regarding the migration of stations into urban areas. See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995) ("*Headland*"); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) ("*Tuck*"). Nevertheless, a *Tuck* showing is provided.

7. In making the determination whether to award an urbanized community a first local service preference, the Commission will consider (1) the extent to which the station will provide service to the entire Urbanized Area, (2) the relative populations and proximity of the suburban and central city, and, most importantly, (3) the independence of the suburban community. *Tuck*, 3 FCC Rcd at 5377-78. In this case, from the proposed transmitter site, KHKZ(FM) would place a 70 dBu contour over 100% of the Harlingen, Texas Urbanized Area.

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<sup>1</sup> A search of CDBS reveals an application for a new AM station at San Benito (this application does not have a file number). However, counsel for Clear Channel consulted with Commission staff who indicated that this application will not result in a first local service at San Benito, and therefore will not prevent Station KHKZ(FM) from providing a first local service at San Benito.

<sup>2</sup> In applying *FM Assignment Policies* to this proposal, the proper analysis is to compare the community of Brownsville which is losing a station versus the community of San Benito which is obtaining its first local service. The comparison should not involve Mercedes because the number of service remaining at Mercedes will remain the same under this proposal.

San Benito's population (2000 U.S. Census 23,615) is 41% of that of Harlingen (2000 U.S. Census 57,564) and San Benito is located 9.1 kilometers from Harlingen. These figures are more favorable than those of other suburban communities granted a first local preference. *See, e.g., Old Fort, Fletcher, and Asheville, North Carolina; Surgoinville, Tennessee, and Augusta, Georgia*, 18 FCC Rcd 12181, 12182 (2003) (Fletcher's population is 6.1% of that of Asheville, and Fletcher is located 17 kilometers from Asheville); *Malvern and Bryant, Arkansas*, 14 FCC Rcd 3576, 3577 (1999) (Bryant's population is 3% of that of Little Rock, and Bryant is located 20 miles from Little Rock). Nevertheless, the Commission has repeatedly stated that these factors are less important than evidence of independence. *See Headland*, 10 FCC Rcd at 10355. The following analysis of the eight *Tuck* factors demonstrates the independence of San Benito from Harlingen.

(1) *Extent to which the residents of San Benito work in San Benito.*

According to 2000 Census figures, 2,638 of the 7,457 employed individuals in San Benito, or 35%, work at their place of residence. *See Exhibit 2.* This percentage compares favorably with other independent communities. *See, e.g., Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (2001) (11.3% of working-age residents worked in community); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610 (1996) (13% of Gilbert's working population actually worked in Gilbert).

(2) *Newspapers and other media that cover San Benito's local needs and*

*interests.* The *San Benito News* is a semiweekly newspaper that has been published since 1911. It provides the residents of San Benito with local news coverage. Also, the City of San Benito publishes the *Resaca City Record* which is a quarterly newsletter for the citizens of San Benito. *See Exhibit 2.*

**(3) Community leaders and residents perceive San Benito as being separate from Harlingen.** San Benito was established in the early 1900s when the San Benito Land and Water Company subdivided lots in the area and began selling them. A post office was established in San Benito in 1907 and the first meeting of the San Benito City Council was held in 1911. In 1915, San Benito was a base for troops dispatched to deal with border disputes with Mexico. In its early years, San Benito was a major shipper of citrus fruits and vegetables. Today, San Benito's economy consists of industrial, commercial, and retail businesses. When describing San Benito, the San Benito Industrial Development Authority's website states that, "It's all right here in San Benito...When you are looking for a place to build a business or raise a family you are looking for a complete package...a place with a dynamic business community, a location with access to transportation and industry and a community with good schools, good recreation and good people. San Benito is that kind of place...we have the complete package rolled into one." See Exhibit 2.

**(4) San Benito has its own local government and elected officials.** The City of San Benito is governed by a Mayor and four City Commissioners. The City Manager of San Benito is responsible for the administration of San Benito. In addition to these public positions, the City of San Benito has the following boards with elected board members: Economic Development Corporation Board, Utilities Board, Libraries Board, and Planning and Zoning Board. The City of San Benito has the following departments: Administration, Finance, Information Technology, Community Improvement, Public Works, and Utilities. The City of San Benito also has its own municipal court. See Exhibit 2.

(5) *San Benito has its own zip code.* The zip code assigned to San Benito is 78586, and the U.S. Postal Service operates an office in San Benito. *See Exhibit 2.*

(6) *San Benito has its own commercial establishments and health facilities.* San Benito is home to the San Benito Chamber of Commerce and a variety of businesses and commercial establishments. San Benito's largest employers include, San Benito CISD, Wal-Mart Supercenter, Coca-Cola Bottling, and South Texas Shrimp Processors. A number of local businesses identify with the community by using "San Benito" in their name, including San Benito Imaging Center, San Benito Barber Shop, San Benito Textile, Inc., San Benito Eye Clinic, San Benito Auto Glass, San Benito Auto Sales, Star's Drive In of San Benito, and San Benito Bank & Trust Co. *See Exhibit 2.*

Health care is provided to the community of San Benito by San Benito Medical Association, San Benito Health Clinic, and a number of sole practitioners. San Benito is also home to a number of religious organizations, including the San Benito Pentecostal Church, Saint Theresa Church, Church of Christ, All Saints Episcopal Church, and St. Benedict's Catholic Church. *See Exhibit 2.*

(7) *San Benito is a separate and distinct advertising market from Harlingen.* The *San Benito News* provides the businesses of San Benito with a place to advertise to the residents of San Benito without relying on the Harlingen advertising market.

(8) *San Benito has its own schools, library, police protection and fire protection.* The San Benito Consolidated Independent School District administers the public schools in San Benito. There are ten elementary schools, two middle schools, two high schools, and one alternative school in San Benito. The San Benito Public Library is administered by the City of San Benito and provides the full range of library services to

the community of San Benito. The San Benito Fire Department has three divisions. The Fire Suppression Division is composed of three captains, three lieutenants, six drivers, and 13 firefighters. The Fire Prevention Division is composed of one fire marshal, six inspectors, and five arson investigators. The Training Division is composed of a captain. The San Benito Police Department has four divisions. The Patrol Division is responsible for the enforcement of local and state laws and ensuring public safety. The Criminal Investigative Division is responsible for solving crimes that occur in San Benito. The Support/Communications Division is responsible for equipment upkeep, receiving and dispatching calls, and the retention of records and filing. The Special Investigative Division is responsible for investigating narcotics and other major crimes. *See Exhibit 2.*

8. San Benito is clearly independent of Harlingen and therefore deserving of a first local service. Clear Channel reiterates that if the Commission allots Channel 292C3 at San Benito as that community's first local service, it will file an application and construct the facilities as authorized.

## **II. Station KTEX(FM), Brownsville to Mercedes, Texas**

9. In order to maintain local service at Mercedes, Capstar desires to change the community of license of KTEX(FM) from Brownsville to Mercedes. As demonstrated in the Technical Exhibit, Channel 262C0 can be allotted to Mercedes at KTEX(FM)'s current coordinates of 26-06-02 North Latitude, 97-50-21 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities.<sup>3</sup> *See Figure 1B.* A 70 dBu signal can be provided to Mercedes from the current

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<sup>3</sup> The engineering statement reveals a short spacing to an allotment on Channel 262B1 at Sabinas Hidalgo, Mexico. However, Capstar is not proposing any changes to the facilities of KTEX(FM) and therefore, this proposal does not violate the U.S.-Mexican Agreement.

reference coordinates. See Figure 6. Since KTEX(FM)'s facilities will not be relocated, there will be no change in population or area served.

10. Capstar desires to make this change under the guidelines set forth in *Community of License, supra*. First, because the facilities are identical, the proposed use of Channel 262C0 at Mercedes is mutually exclusive with the current use of Channel 262C0 at Brownsville. See Figure 1B. Second, Brownsville will not be deprived of its only local service because it is currently served by Stations KBNR(FM) (Channel 202), KKPS(FM) (Channel 258), KQXX(AM) (1600 kHz), and KVNS(AM) (1700 kHz). Third, as discussed in paragraph 5, establishment of first local service at San Benito under Priority 3 will result in a preferential arrangement of allotments over the retention of a fifth local service at Brownsville under Priority 4. A *Tuck* showing is not required because Capstar is not proposing a first local service at Mercedes. Further, this relocation does not implicate the Commission's policy regarding the migration of stations into urban areas, even though KTEX(FM) is moving into the McAllen Urbanized Area because the Station is currently licensed to Brownsville, which is the center city of the Brownsville Urbanized Area.

11. Capstar reiterates that if the Commission allots Channel 262C0 at Mercedes, it will file an application and construct the facilities as authorized.

### **III. Conclusion**

This Petition advanced by Clear Channel and Capstar offers significant public interest benefits. The community of San Benito will receive a first local service while the communities of Mercedes and Brownsville will remain well served. There will also be a substantial net increase in population and area served. Accordingly, the Commission should promptly issue a Notice of Proposed Rule Making as described herein.

Respectfully submitted,

CLEAR CHANNEL BROADCASTING  
LICENSES, INC.

CAPSTAR TX LIMITED PARTNERSHIP

By: 

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Scott Woodworth

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1455 Pennsylvania Ave, NW

Suite 600

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(202) 639-6500

Their Counsel

February 11, 2005

## TECHNICAL EXHIBIT

### PETITION FOR RULE MAKING TO AMEND THE FM TABLE OF ALLOTMENTS

MERCEDES, TEXAS  
SAN BENITO, TEXAS  
BROWNSVILLE, TEXAS

#### Technical Narrative

This technical narrative and accompanying Figures have been prepared on behalf of stations KHKZ(FM), Mercedes, Texas, and KTEX(FM), Brownsville, Texas, in support of a Petition for Rule Making to amend 47 C.F.R. Section 73.202(b) to reallocate channel 292A at Mercedes, Texas to channel 292C3 at San Benito, Texas; and to reallocate channel 262C0 at Brownsville, Texas to Channel 262C0 at Mercedes, Texas.

As the requested changes are mutually exclusive with the channels' current allotments, Petitioner invokes the provisions of Section 1.420(i).

The following is a summary of the merits of this reallocation proposal:

- The community of San Benito, Texas (2000 Census population 23,615 persons) will be provided with its first local aural transmission service.
- The community of Mercedes, Texas (2000 Census population 13,870 persons) will have local aural service from FM station KTEX(FM).
- The community of Brownsville, Texas (2000 Census population 140,075 persons) will continue to have local aural service from radio stations KBNR(FM), KVNS(AM), KQXX(AM) and KKPS(FM).

Channel 292 and channel 262, Mercedes, Texas and San Benito, Texas

- The proposed channel 292C3 allotment site at San Benito, Texas satisfies the Commission's allocations spacing rules.<sup>1</sup>
- The proposed channel 262C0 allotment site at Mercedes, Texas satisfies the Commission's allocations spacing rules<sup>2</sup>.
- The 60 dBu gain area associated with the proposed reallocation of channel 292 will encompass 182,344 persons, while the 60 dBu loss area will encompass 19,178 persons, for a net gain of 163,166 additional persons served within the KHKZ(FM) 60 dBu service contour<sup>3</sup>.
- The channel 292 60 dBu loss area is well served by a number of radio services<sup>4</sup>.
- There is no gain or loss area associated with the reallocation of channel 262C0 from Brownsville, Texas to Mercedes, Texas, since there is no proposed site change.

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<sup>1</sup> Proposed allotment coordinates for 292C3 are 26° 03' 13" North, 97° 43' 19" West. See this Exhibit under the heading "Compliance With FCC Rules" for details on allocations considerations with respect to this site. Also see *Figure 1A* accompanying this Exhibit for the channel 292C3 allocations spacing study.

<sup>2</sup> Proposed allotment coordinates for 262C0 are 26° 06' 02" North, 97° 50' 21" West, the same as the present allotment and licensed site. See this Exhibit under the heading "Compliance With FCC Rules" for details on allocations considerations with respect to this site. Also see *Figure 1B* accompanying this Exhibit for the channel 262C0 allocations spacing study.

<sup>3</sup> See *Figure 2*.

<sup>4</sup> See *Figures 3 and 4*.

*Table of Figures Accompanying this Exhibit*

- |          |  |
|----------|--|
| Figure 1 | Allocations Spacing Studies for:<br>A. KHKZ channel 292C3<br>B. KTEX channel 262C0<br>C. KPSO channel 287A<br>D. Channel 292A at Premont, TX |
| Figure 2 | KHKZ(FM) Channel 292 60 dBu Gain and Loss Areas  |
| Figure 3 | Depiction of Services to KHKZ(FM) 60 dBu loss area   |
| Figure 4 | Tabulation of Services to KHKZ(FM) 60 dBu loss area  |
| Figure 5 | KHKZ(FM) Channel 292C3 70 dBu Service to San Benito, Texas, and present and proposed coverage of nearby Urbanized Areas.                     |
| Figure 6 | KTEX(FM) Channel 262C0 70 dBu Service to Mercedes, Texas.  |
| Figure 7 | Protection to Channel 290AA, to Matamoros, Tamalipas, Mexico   |

Channel 292 and channel 262, Mercedes, Texas and San Benito, Texas

### Proposed Change in the FM Table of Allotments

Brownsville, Texas is located in Cameron County, Texas and has a 2000 U.S. Census population of 140,075 persons. Under this proposal, Brownsville will continue to receive local aural radio service from radio stations KBNR(FM), KVNS(AM), KQXX(AM) and KKPS(FM).

Mercedes, Texas is located in Hidalgo County, Texas, and has a 2000 U.S. Census population of 13,870 persons. Under this proposal, Mercedes will continue to receive local aural radio service from FM station KTEX.

San Benito, Texas is located in Cameron County, Texas, and has a 2000 U.S. Census population of 23,615 persons. San Benito has no local FM or AM aural broadcast service and, therefore, Petitioner's proposal would bring a first local aural broadcast service to San Benito, TX.

Accordingly, Petitioner requests modification of the FM allocation table as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Mercedes, TX	292A	262C0
San Benito, TX	-	292C3
Brownsville, TX	258C, 262C0	258C

### Compliance With FCC Rules

Figure 1A herein is a tabulation of required separations pertinent to use of channel 292C3 at San Benito, Texas. The reference site complies with the Commission's minimum distance separations contained in Section 73.207 of the FCC's rules to all existing, authorized and proposed stations and allotments, except for the following:

- The existing channel 292A allotment at Mercedes, Texas, for which this proposal is a mutually exclusive substitute.
- XHNA-FM, Matamoros, TA (Mexico), channel 290AA. Consistant with the international bilateral agreement,

Channel 292 and channel 262, Mercedes, Texas and San Benito, Texas

the interfering and protected contours of XHNA-FM and KHKZ(FM) do not overlap as demonstrated in Figure 7.

- KPSO(FM) at Falfurrias, Texas. We propose a channel change for KPSO(FM) from channel 292A, to channel 287A, at it's existing site. The allocations spacing study pertinent to use of channel 287A at Falfurrias, at the existing site, is presented in Figure 1C herein<sup>5</sup>.

Operation from the channel 292C3 reference site will provide the requisite city grade (70 dBu) signal to all of San Benito.<sup>6</sup> Figure 5 is a map which was developed using the 2000 U.S. Census Topologically Integrated Geographic Encoding and Referencing (TIGER) Line files which depicts the city grade coverage (70 dBu) contours based on class C3 facilities (ERP 25 kW/HAAT 100 meters) at the proposed allotment site. As shown, all (100%) of San Benito is located within the proposed 70 dBu City Grade contour. San Benito is located 11.2 kilometers from the proposed KHKZ(FM) channel 292C3 allotment site.

Operation from the channel 262C0 reference site will provide the requisite city grade (70 dBu) signal to all of Mercedes.<sup>7</sup> Figure 6 is a map which was developed using the 2000 U.S. Census Topologically Integrated Geographic Encoding and Referencing (TIGER) Line files which depicts the city grade coverage (70 dBu) contours based on class C0 facilities (ERP 100 kW/HAAT 450 meters) at the proposed allotment site. As shown, all (100%) of Mercedes is located within the proposed channel 262C0 70 dBu City Grade contour. Mercedes is located 9.2 kilometers from the proposed KTEX(FM) channel 262C0 allotment site.

#### Urbanized Area Considerations

The KHKZ(FM) 292A 70 dBu contour currently encompasses 48% of the Harlingen, Texas Urbanized Area. The proposed channel 292C3 allotment's 70 dBu contour will encompass 100% of the Harlingen Urbanized area. The 292A 70 dBu contour currently encompasses 8% of the McAllen, Texas

<sup>5</sup> Operation on channel 287A at Falfurrias, Texas will require a channel change for a vacant allotment at Premont, TX, from channel 287A to channel 292A. The allocations spacing study for 292A at Premont is presented in Figure 1D herein.

<sup>6</sup> SEE Figure 5 herein.

<sup>7</sup> SEE Figure 6 herein.

Channel 292 and channel 262, Mercedes, Texas and San Benito, Texas

Urbanized Area. The proposed channel 292C3 allotment contour will not encompass any of the McAllen Urbanized Area. The current 292A 70 dBu contour does not encompass any of the Brownsville, Texas Urbanized Area. The proposed KHIZ(FM) 292C3 contour will encompass 8% of the Brownsville Urbanized Area. Present and proposed coverage of Urbanized Areas is demonstrated in Figure 5.

#### 60 dBu Gain and Loss Areas

There are currently 283,320 persons residing within the KHKZ(FM) channel 292A 60 dBu contour. There will be 446,486 persons residing within the proposed KHKZ(FM) 292C3 60 dBu contour. 264,142 persons currently residing within the KHKZ(FM) 60 dBu contour will continue to receive service from KHKZ(FM) under this proposal. 19,178 persons will lose service. 182,344 persons will gain new service within the proposed KHKZ(FM) 60 dBu contour as a result of the proposed 292C3 operation at San Benito, TX, for a net aggregate gain of 163,166 persons. See Figure 2.

The 60 dBu loss area related to the reallocation of channel 292A to channel 292C3 is well served by many aural services. See Figures 3 and 4.

As the KTEX(FM) allotment site is not being moved, nor is the class changing, there is no 60 dBu gain or loss area associated with the reallocation of KTEX(FM) from channel 262C0 at Brownsville, TX to channel 262C0 at Mercedes, TX.

#### Coverage Contours

The FM predicted coverage contours were calculated in accordance with the provisions of 47 C.F.R. Section 73.313, except that, in accordance with current FCC practice, uniform terrain was assumed in all directions.

#### Population and Area

The population within the FM primary service contour (1 mV/m) was calculated using a computer program that utilizes the 2000 U.S. Census database of "population centroids". The program adds the populations of those U.S.